

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

TARA L. JACKSON,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-03802

AMERICAN NATIONAL PROPERTY
AND CASUALTY COMPANY,

Defendant.

**AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY'S
PETITION FOR REMOVAL**

NOW COMES the Defendant, American National Property and Casualty Company, (hereinafter "ANPAC"), by counsel, Lou Ann S. Cyrus/Dominick R. Pellegrin and the law firm of Shuman, McCuskey & Slicer, PLLC, and hereby files this Petition for Removal, and states as follows:

1. On or about July 11, 2017, Plaintiff, Tara L. Jackson, commenced this case, styled *Tara L. Jackson v. American National Property and Casualty Company* in the Circuit Court of Fayette County, West Virginia. Defendants were served with process on July 11, 2017.

Removal is justified because There is Complete Diversity of Citizenship Between the Parties with an Amount in Controversy Exceeding \$75,000.00

2. The District Courts of the United States of America have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$ 75,000, exclusive of interest and costs, and where the matter is suit between citizens of different States. 28 U.S.C. § 1332(a)(1). Thus, this matter is removable under 28 U.S.C. §1441(b).

3. Plaintiff admits in her Complaint that she is a resident of West Virginia. See, Complaint, at ¶¶ 1-15. The sole Defendant in this matter is ANPAC, a foreign corporation. Thus complete diversity between parties exists in this action pursuant to 28 U.S.C. §1332(a)(1).

4. Plaintiff further alleges in her Complaint causes of action for: (1) breach of contract of insurance; (2) violations of the West Virginia Unfair Trade Practices Act (W.Va. Code §33-11-1) ; and (3) recovery of damages including attorneys' fees pursuant to *Hayseeds, Inc. v. State Farm Fire & Cas*, 177 W.Va. 323, 352 S.E.2d 73 (W.Va. Dec. 12, 1986). See, Complaint, at ¶¶ 1-15.

4. Plaintiff's Complaint arises out of allegations that ANPAC improperly denied a claim on her homeowner's insurance policy after her property alleged suffered "severe damage as a result of the derecho that hit southern West Virginia causing widespread destruction." See, Complaint, at ¶¶ 2-5.

5. By Plaintiff's own allegations, she requests unspecified compensatory damages arising out "severe [real] damage. See, Complaint, at ¶ 3. Plaintiff's Complaint further requests statutory damages pursuant to the West Virginia Unfair Trade Practices Act (W.Va. Code §33-11-1) ; and damages including attorneys' fees pursuant to *Hayseeds, Inc. v. State Farm Fire & Cas*, 177 W.Va. 323, 352 S.E.2d 73 (W.Va. Dec. 12, 1986). See, Complaint, at ¶¶ 7-15. Thus, well over \$75,000.00 is in controversy and jurisdictional threshold under 28 U.S.C. §1332(a) is satisfied.

6. This Petition for Removal is being filed within the time allotted by 28 U.S.C. §1446(b), as Defendants was served on July 11, 2017.

7. Pursuant to 28 U.S.C. §1446(a) and local practices, the following items listed below are attached as Exhibit A to this Petition:

- a. A certified copy of the docket sheet in State Court; and
- b. All documents filed or served in the case, including all process, pleadings, and orders served upon Defendants.

WHEREFORE, the petitioner, ANPAC, prays that the civil action now pending against it in the Circuit Court of Fayette County, West Virginia be removed therefrom to this Honorable Court, pursuant to 28 U.S.C. §1441.

**AMERICAN NATIONAL PROPERTY
AND CASUALTY COMPANY,
By Counsel**

/s/Lou Ann S. Cyrus

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